

As Introduced

**130th General Assembly
Regular Session
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S. B. No. 165

Senator Jordan

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A B I L L

To amend section 3798.04 and to enact sections 1
4731.73 and 4731.74 of the Revised Code to 2
generally prohibit a physician from submitting any 3
portion of a patient's medical record to an 4
electronic database maintained by another party 5
without authorization from the patient or the 6
patient's representative and to prohibit a 7
physician from asking a patient or prospective 8
patient questions related to firearm ownership or 9
possession. 10

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF OHIO:

Section 1. That section 3798.04 be amended and sections 11
4731.73 and 4731.74 of the Revised Code be enacted to read as 12
follows: 13

Sec. 3798.04. (A) A covered entity shall not ~~do either of the~~ 14
~~following:~~ 15

~~(A) Use~~ use or disclose protected health information without 16
an authorization that is valid under 45 C.F.R. 164.508 and, if 17
applicable, 42 C.F.R. part 2, except ~~when~~ as follows: 18

(1) When the use or disclosure is required ~~or permitted~~ 19
without such authorization by Subchapter C of Subtitle A of Title 20

45 of the Code of Federal Regulations and, if applicable, 42 21
C.F.R. part 2; 22

(2) To the extent that section 4731.73 of the Revised Code 23
does not prohibit the use or disclosure without such 24
authorization, when the use or disclosure is permitted without 25
such authorization by Subchapter C of Subtitle A of Title 45 of 26
the Code of Federal Regulations and, if applicable, 42 C.F.R. part 27
2. 28

(B) Use A covered entity shall not use or disclose protected 29
health information in a manner that is not consistent with 45 30
C.F.R. 164.502 and, to the extent section 4731.73 of the Revised 31
Code is more stringent than 45 C.F.R. 164.502, section 4731.73 of 32
the Revised Code. 33

Sec. 4731.73. (A) As used in this section: 34

(1) "Medical assistance" means medical assistance provided 35
pursuant to, or under programs established by, section 5101.49, 36
sections 5101.50 to 5101.529, Chapter 5111., or any other 37
provision of the Revised Code. 38

(2) "Physician" means an individual authorized under this 39
chapter to practice medicine and surgery, osteopathic medicine and 40
surgery, or podiatric medicine and surgery. 41

(3) "Protected health information" has the same meaning as in 42
45 C.F.R. 160.103. 43

(4) "Third party" means any of the following: 44

(a) A person authorized to engage in the business of sickness 45
and accident insurance under Title XXXIX of the Revised Code; 46

(b) A person or government entity providing coverage for 47
medical services or items to individuals on a self-insurance 48
basis; 49

<u>(c) A health insuring corporation as defined in section</u>	50
<u>1751.01 of the Revised Code;</u>	51
<u>(d) A group health plan as defined in 29 U.S.C. 1167;</u>	52
<u>(e) A service benefit plan as referenced in 42 U.S.C.</u>	53
<u>1396a(a)(25);</u>	54
<u>(f) A pharmacy benefit manager;</u>	55
<u>(g) A third-party administrator licensed under Chapter 3959.</u>	56
<u>of the Revised Code;</u>	57
<u>(h) Any other person or government entity that is, by law,</u>	58
<u>contract, or agreement, responsible for the payment or processing</u>	59
<u>of a claim for a medical item or service for a recipient of</u>	60
<u>medical assistance.</u>	61
<u>(B) Except as provided in division (C) of this section, a</u>	62
<u>physician shall neither submit nor permit the submission of all or</u>	63
<u>a portion of a patient's medical record to an electronic database</u>	64
<u>created or maintained by a person, other than the physician, or by</u>	65
<u>a government entity unless the following, as applicable, signs an</u>	66
<u>authorization that is valid under 45 C.F.R. 164.508 and, if</u>	67
<u>applicable, 42 C.F.R. part 2:</u>	68
<u>(1) In the case of a patient who is an adult, the patient,</u>	69
<u>the patient's guardian, or an authorized person as defined in</u>	70
<u>section 3701.74 of the Revised Code;</u>	71
<u>(2) In the case of a patient who is a minor, the patient's</u>	72
<u>parent, guardian, custodian, or other person responsible for the</u>	73
<u>minor's care.</u>	74
<u>(C) The prohibition in division (B) of this section does not</u>	75
<u>apply to the extent that the disclosure of protected health</u>	76
<u>information in a medical record is required without authorization</u>	77
<u>by either of the following:</u>	78
<u>(1) Subchapter C of Subtitle A of Title 45 of the Code of</u>	79

<u>Federal Regulations and, if applicable, 42 C.F.R. part 2;</u>	80
<u>(2) A contract for payment of the patient's medical claims by a third party.</u>	81 82
<u>Sec. 4731.74. (A) As used in this section:</u>	83
<u>(1) "Firearm" has the same meaning as in section 2923.11 of the Revised Code.</u>	84 85
<u>(2) "Physician" has the same meaning as in section 4731.73 of the Revised Code.</u>	86 87
<u>(B) A physician shall not ask a patient or prospective patient, or that person's representative, whether the patient or prospective patient, or any individual residing in the patient's or prospective patient's place of residence, owns or possesses a firearm or any other question related to ownership or possession of a firearm.</u>	88 89 90 91 92 93
Section 2. That existing section 3798.04 of the Revised Code is hereby repealed.	94 95